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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,306	01/21/2004	Rolf Lasson	027650-499	1507

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BUCHANAN INGERSOLL PC
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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
FISCHER, JUSTIN R	
ART UNIT	**PAPER NUMBER**
1733	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/760,306	LASSON, ROLF	
	Examiner	Art Unit	
	Justin R. Fischer	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The Declaration under 37 CFR 1.132 filed January 21, 2004 is insufficient to overcome the rejection of claims 6-16 based upon Rebholtz. In particular, section 12 of the declaration suggests that it is common practice to use an extruder for applying an adhesive layer between layers in a laminate to bond the layers together (results in flexible assembly). While this might be the case, the rejection as set forth in the previous communications relies on the fact that thermocompression bonding represents a common technique that is consistent with the teachings of Rebholtz ("any means common in the art")- this position is independent of the conventional use of additional bonding techniques, such as extrusion.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 6, 8, 10, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebholtz (US 4,387,126) and further in view of the Admitted Prior Art, Hannes (US 3,060,068), Hashida (US 4,861,409), Ohtsuki (US 4,407,689), Hunt (US 5,077,104), and Andersson (US 4,657,614). The following rejection is being presented in view of the decisions handed down by the Board of Patent Appeals and Interferences on June 29, 200 and February 19, 2003.

Multilayer packaging materials that include an internal metal layer are conventional in the packaging industry, as shown for example by Rebholtz and the Admitted Prior Art (Page 1, Lines 16-20). Rebholtz, for example, discloses a packaging material comprising (from outside to inside) a substrate or layer 1 (e.g. paper), an adhesive layer 2, a metallic foil 3, and a coextruded, plastic barrier layer 5 (Column 2, Lines 10-55). Rebholtz teaches that the packaging material is most easily produced by preparing subcombinations and then uniting the subcombinations and that this may be accomplished by "any means common in the art" (Column 3, Lines 20-30). The laminating methods/operations, such as extruding an adhesive between layers to be laminated or thermocompression bonding are considered by the examiner to be within the "means common in the art" suggested by Rebholtz and noted by the APA (Page 3, Lines 15-18).

The claim also requires a compression step between heated and cooled members and a specific order of laminating, i.e., one side of a metal foil is laminated to a first plastic layer and then the other side of the foil is laminated to a core layer.

It is well known in the art to provide compressive members which are at different temperatures in order to protect a layer from damage/undesirable effects; this concept is shown for example by Hannes, who discloses two platens, one operating at a lower temperature than the other (Column 2, Lines 11-43), and Hashida, who provides cooling means for a roll to prevent overheating (Column 4, Lines 22-28 and Column 6, Lines 22-30). In addition, such combinations are also used to prevent elastomeric-coated laminating rolls from becoming sticky, as shown for example by Ohtsuki (Column 5.

Lines 43-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to use heated and cooled compressive members for the benefits detailed above, it being further noted that such a method is consistent with the teachings of Rebholtz regarding "any means common in the art".

Regarding the order in which the layers are assembled, one of ordinary skill in the art at the time of the invention would have readily appreciated that the subcombinations may be combined in any manner; Hunt is one example that discloses a sequence as claimed (see Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to assemble the subcombinations in accordance to the claimed order, it being emphasized that there are only two variations for combining subcombinations in Rebholtz (subcombination can be paper and foil or foil and coextruded plastic laminate).

With respect to the core having at least one hole therein, the APA notes containers using multilayer films are often provided with opening apertures (Page 2, Lines 3-14).

Lastly, in regards to the independent claim, it is generally well known to form one of the compressive members as a "cooling member" in order to complete the bonding process and allow the thus formed assembly to be wound on a storage reel. This limitation is consistent with the teachings of Rebholtz ("any means common in the art"). Andersson provides on example of such a conventional method in which the claimed assembly (paper, foil, plastic) is formed between a pair of compressive members, wherein one of the compressive members is a "cooling member". Absent any

conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to form one of the compressive members as a cooling member. It is further noted that Hannes, Hashida, and Ohtsuki evidence similar lamination methods in which a cooling compressive member is provided.

Regarding claim 10, the process temperature employed is dependent on the materials selected; such temperatures are easily determined by one of ordinary skill in the art at the time of the invention; the temperature range claimed is suggested in the art as shown by Ohtsuki (Column 6, Lines 4-10).

With respect to claim 16, Rebholtz teaches that the metallic foil has a thickness between about 6.3 microns and 12.7 microns (Column 2, Lines 63-68).

4. Claims 7, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebholtz, the Admitted Prior Art, Hannes, Hashida, Ohtsuki, Hunt, and Andersson as applied in claim 6 above and further in view of Snow (US 4,363,841). Regarding the coextruded thermoplastic laminate, Rebholtz does suggest such a layer but is silent as to the specific use of a polyethylene/EAA assembly. In any event, it is well known in the packaging industry to form such co-extruded thermoplastic laminates in accordance to the claimed invention, as shown for example by Snow (Column 2, Lines 65+). In this instance, Snow teaches that the use of these materials insures adherence between the layers of the packaging material. It is further noted that the packaging laminate of Andersson is similarly formed of a co-extruded thermoplastic formed of polyethylene and EAA (Column 3, Lines 60+). Thus, one of ordinary skill in the art at the time of the

invention would have found it obvious to form the extruded barrier laminate of Rebholtz in accordance to the limitations of the claimed invention.

5. Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebholtz, the Admitted Prior Art, Hannes, Hashida, Ohtsuki, Hunt, and Andersson as applied in claim 6 above and further in view of either one of Elmore (GB 2,170,486), Eulie (US 3,505,147), or Bergerson (US 4,354,886). As noted above, Rebholtz teaches a method of forming a packaging material, wherein said method comprises "any of the means common in the art". While the reference fails to provide an express teaching to include a bending/breaking roller to apply tension to the foil/thermoplastic laminate, it is extremely well known to include such an element in the manufacture of multi-layer laminates in order to eliminate the occurrence of wrinkling or bubbling, as shown for example by either one of Elmore (Page 1, Lines 70-95), Eulie (Column 2, Lines 30-40), or Bergerson (Figure 1 and Column 2, Lines 40-45). It is clearly evident that tension-applying devices (bending rollers) are extremely well known and conventionally used in the manufacture of multi-layer benefits for the benefits detailed above. As such, one of ordinary skill in the art at the time of the invention would have found it obvious to include such an element in the method of Rebholtz.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R. Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Justin Fischer

August 5, 2005